

ESTTA Tracking number: **ESTTA555688**

Filing date: **08/22/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Body By Jake Global, LLC
Granted to Date of previous extension	09/11/2013
Address	11611 San Vicente Blvd., Suite 610 Los Angeles, CA 90049 UNITED STATES
Attorney information	Michael P. Martin Fischbach, Perlstein, Lieberman & Almond, LLP 1925 Century Park East, Suite 2050 Los Angeles, CA 90067 UNITED STATES mmartin@fpllaw.com Phone:3105561956

Applicant Information

Application No	85787951	Publication date	05/14/2013
Opposition Filing Date	08/22/2013	Opposition Period Ends	09/11/2013
Applicant	Citrusource 7 Corporate Park 120 Irvine, CA 92606 UNITED STATES		

Goods/Services Affected by Opposition

Class 032. All goods and services in the class are opposed, namely: Fruit juices; Lemonade

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1373726	Application Date	10/09/1984
Registration Date	12/03/1985	Foreign Priority Date	NONE
Word Mark	BODY BY JAKE		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1984/06/25 First Use In Commerce: 1984/06/25 SERIES OF BOOKS AND ARTICLES Class 020. First use: First Use: 1983/01/00 First Use In Commerce: 1983/01/00 ORNAMENTAL BUTTONS Class 025. First use: First Use: 1983/01/00 First Use In Commerce: 1983/01/00 SWEAT SUITS, SWEATSHIRTS, SWEAT BANDS, T-SHIRTS, JEANS, SHORTS, TRUNKS, AND JACKETS Class 041. First use: First Use: 1983/02/00 First Use In Commerce: 1983/02/00 EDUCATIONAL AND ENTERTAINMENT SERVICES IN THE NATURE OF CUSTOM PERSONALIZED TRAINING PROGRAMS

U.S. Registration No.	1877452	Application Date	09/02/1993
Registration Date	02/07/1995	Foreign Priority Date	NONE
Word Mark	BODY BY JAKE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1984/06/00 First Use In Commerce: 1984/06/00 cinematographic films and pre-recorded audio and video tapes in the field of exercise, entertainment and education, generally featuring topics of health, motivation, exercise, and nutrition Class 028. First use: First Use: 1992/10/00 First Use In Commerce: 1992/10/00 manually operated exercise equipment and exercise machines		

U.S. Registration No.	2848325	Application Date	03/14/2002
Registration Date	06/01/2004	Foreign Priority Date	NONE
Word Mark	BODY BY JAKE TOTAL BODY TRAINER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2002/05/00 First Use In Commerce: 2002/05/00 Manually operated exercise equipment		

U.S. Registration No.	4063752	Application Date	03/25/2009
Registration Date	11/29/2011	Foreign Priority Date	NONE
Word Mark	JAKE SHAKE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2011/08/27 First Use In Commerce: 2011/08/27 Dietary and nutritional supplements, meal replacement and dietary supplement drink mixes, protein supplements		

Attachments	NoticeOpposition.pdf(182106 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Michael P. Martin/
Name	Michael P. Martin
Date	08/22/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application

Serial No.: 85787951
Mark: JAKE'S LEMONADE
Filed: November 27, 2012
Published: May 14, 2013
Int'l Class: 32

BODY BY JAKE GLOBAL, LLC a Delaware
Limited Liability Company,

Opposer,

v.

CITRUSOURCE, a California Limited Liability
Company,

Applicant.

Opposition No.:

NOTICE OF OPPOSITION

Assistant Commissioner of Trademarks
PO Box 1451
Alexandria, VA 22313-1451

Sir:

Opposer Body By Jake Global, LLC a Delaware Limited Liability Company, (hereinafter "Opposer") believes that it will be damaged by registration of the mark shown in the above identified application, and hereby opposes the same in accordance with the provisions of Section 13 of the Lanham Act. (15 U.S.C. 1063) and Section 2(d) of the Lanham Act (15 U.S.C. 1052(d)).

The grounds for opposition are as follows:

1. Opposer and its related companies own the following United States Trademark Registration Nos., among others: 1,373,726 for the mark BODY BY JAKE; 1,877,452 for the mark BODY BY JAKE; and 2,848,325 for the mark BODY BY JAKE TOTAL BODY TRAINER; and No. 4,063,752 for the mark JAKE SHAKE. Opposer's related company has been using said BODY BY JAKE marks since at least January, 1983 and has been using said marks in interstate commerce since at least January, 1983, and Opposer has been using the mark JAKE SHAKE since August 27, 2011 and has been using said mark in interstate commerce since August 27, 2011.

2. Opposer manufactures, sells, distributes, advertises, and licenses various types of health and fitness related products and services. Opposer utilizes the above-referenced JAKE SHAKE mark in various combinations on its dietary supplement drinks mixes and products, in sales catalogs and in advertising to identify them as originating from Opposer.

3. Opposer has developed extensive goodwill with respect to its JAKE SHAKE marks, individually and in composite. Opposer has expended substantial sums in the advertising and promotion of its products, and by its efforts and its considerable expenditures for promotional activities, Opposer has developed an extensive and valuable reputation for its marks.

4. By virtue of its efforts, and the expenditures of considerable sums for promotional activities as well as the excellence of the quality of its products and services, Opposer has gained a valuable reputation through its above-identified JAKE SHAKE marks.

5. Opposer's marks are inherently distinctive, have acquired substantial goodwill and secondary meaning, and are famous within the meaning of 15 U.S.C. § 1125(c)(1).

6. On November 27, 2012, Citrusource, LLC (hereinafter "Applicant") filed an application to register the mark JAKE'S LEMONADE for: "Fruit juices and Lemonade" in International Class 32. This application was assigned Serial No. 85787951 and proceeded to publication in the Official Gazette of the United States Patent and Trademark Office on May 14, 2013.

7. Opposer is informed and believes that Applicant's proposed mark is likely to confuse Opposer's customers and potential customers, and the public generally in relation to its own marks.

9. Opposer is informed and believes that Applicant's use of the proposed mark began after Opposer's marks became famous and the filing of Applicant's Application occurred after Opposer's marks became famous, and may dilute the strength of Opposer's marks by lessening the capacity of Opposer's marks to identify and distinguish Opposer's goods and services.

10. Opposer has not and does not consent in any way to Applicant's proposed use of the mark referenced herein.

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WHEREFORE, Opposer respectfully requests that registration of Applicant's mark under the above identified application be refused and that this opposition be sustained.

Respectfully submitted,

FISCHBACH, PERLSTEIN, LIEBERMAN & ALMOND LLP

Dated: July 30, 2013

By: _____

Michael P. Martin

1925 Century Park East, Suite 2050

Los Angeles, California 90067

Telephone: (310) 556-1956

Facsimile: (310) 556-4617

Attorneys for Opposer Body By Jake, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of August, 2013 I served a true and correct copy of the above and foregoing Notice of Opposition on:

CITRUSOURCE
7 CORPORATE PARK STE 120
IRVINE, CALIFORNIA 92606-5153

by depositing a copy thereof in the United States Mail, first class, postage prepaid.



FISCHBACH, PERLSTEIN, LIEBERMAN & ALMOND LLP

1925 Century Park East, Suite 2050
Los Angeles, CA 90067